

DETERMINATIONS, CONCLUSIONS AND ORDER OF THE SECRETARY OF FOOD AND AGRICULTURE

In Regard to the Public Hearings Held on December 5, 2006

PROCEDURAL HISTORY

On December 5, 2006, pursuant to Food and Agricultural Code sections 62031 through 62079, and 3 CCR 2080.2 the Department of Food and Agriculture conducted a public hearing duly noticed on May 11, 2006, for the purpose of considering adjustments to the Class 1 pricing formula for each of California's two milk marketing areas. The Department called the hearing pursuant to the cited code sections after receiving petitions on April 18, 2006, and April 21, 2006, from the Alliance of Western Milk Producers and Western United Dairymen, respectively.

In accordance with procedures established for the conduct of such hearings and noticed to the regulated community on May 11, 2006, the Department subsequently received and accepted an alternative proposal from the Dairy Institute of California on November 14, 2006.

At hearing on December 5, 2006, following procedures established for the conduct of the hearing and noticed to the regulated community on May 11, 2006, the Department, James Aynes, Esq. presiding, opened the Official Hearing Record with the introduction of the jurisdictional documents (Notice, Petition, and the Alternative Proposal and exhibits). The Department then received and entered into the record testimony and documentary evidence pertinent to the matters presented. Subsequent to the close of testimony, the Department further received and entered into the record additional documentation by means of post-hearing briefs, holding the records open for six additional days until December 11, 2006, for that purpose.

The hearing record closed on December 11, 2006 and no further supplementation of the Record is permitted under procedures established for the conduct of the hearings and noticed to the regulated community on May 11, 2006. Ex parte communication between Department staff and the public is prohibited during the rulemaking process as referenced in the Hearing Notice.

Pursuant to Food and Agricultural Code sections 61991 through 62079, the Secretary has broad discretion in deciding these issues. By custom and practice, the Secretary's decision is based on the hearing record and on the Panel Report to the Secretary of Food and Agriculture (Attachment A). The Secretary may adopt, deny, or alter the Panel's recommendations based upon the Secretary's independent assessment of the testimony and documentations entered into the record.

DETERMINATIONS

The Department determines that changes to the current Stabilization and Marketing Plans for Market Milk are now warranted and necessary to continue to effectuate the declared purposes of the Food and Agricultural Code.

Therefore, the Secretary adopts the Hearing Panel's recommendations to:

- Adopt a butter adjuster of -\$0.118/lb.
- Include a dry whey factor with an adjuster of -\$0.85/cwt. in the CRP portion of the Class 1 pricing formula.
- Adopt a CRP adjuster of +\$0.147/cwt

The adjustments to the Plans will take effect for milk delivered to processing plants on or after February 1, 2007.

CONCLUSIONS

The Department has considered all relevant information, including, but not limited to, testimony and items of evidence submitted by all parties to these proceedings, whether specifically mentioned herein, in rendering these findings. The Department has considered all provisions set forth in Chapter 2 and 3, Part 3, Division 21 of the Food and Agricultural Code, whether specifically mentioned herein or not, in rendering these findings. These include, without exception, all provisions and declarations regarding public interest considerations. It is hereby found and concluded that:

- The current Stabilization and Marketing Plans for Market Milk now in effect do not conform to the standards prescribed and therefore tend to effectuate the purposes of said Chapters 2 and 3.
- The proposed changes to the Class 1 price formula mentioned above will tend to effectuate the purposes of said Chapters 2 and 3.
- The revised Stabilization and Marketing Plans for Market Milk for Northern California (Attachment B) and Southern California (Attachment C) conform to the standards prescribed in and tend to effectuate the purposes of said Chapters 2 and 3.

ORDER

It is hereby ordered that the Stabilization and Marketing Plans for Market Milk for Northern California (Order Number 50) and for Southern California (Order Number 65) become effective on or after February 1, 2007.

Original signed by:

A.J. Yates, Undersecretary
California Department of Food and Agriculture

Signed and entered in
the Office of the Secretary
of Food and Agriculture at
Sacramento, California,
On January 12, 2007

Attachments